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AUTHORITY: 12 U.S.C. 1451 *et seq.*, 1716-1723h, and 4501-4641; 28 U.S.C. 2461 note; 42 U.S.C. 3535(d) and 3601-3619.

SOURCE: 60 FR 61888, Dec. 1, 1995, unless otherwise noted.

**Subpart A—General****§ 81.1 Scope of part.**

(a) *Authority.* The Secretary has general regulatory power respecting the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") (referred to collectively as Government-sponsored enterprises ("GSEs")) and is required to make such rules and regulations as are necessary and proper to ensure that the provisions of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 ("FHEFSSA"), codified generally at 12 U.S.C. 4501-4641; the Fannie Mae Charter Act, 12 U.S.C. 1716-1723h; and the Freddie Mac Act, 12 U.S.C. 1451-59, are accomplished.

(b) *Relation between this part and the authorities of OFHEO.* The Director of the Office of Federal Housing Enterprise Oversight ("OFHEO") will issue separate regulations implementing the Director's authority respecting the

GSEs. In this part, OFHEO and the Director are only referenced when the Director's responsibilities are connected with the Secretary's responsibilities.

**§ 81.2 Definitions.**

(a) *Statutory terms.* All terms defined in FHEFSSA (12 U.S.C. 4502) are used in accordance with their statutory meaning unless otherwise defined in paragraph (b) of this section.

(b) *Other terms.* As used in this part, the term—

*AHAR* means the Annual Housing Activities Report that a GSE submits to the Secretary under sections 309(n) of the Fannie Mae Charter Act or 307(f) of the Freddie Mac Act.

*AHAR information* means data or information contained in the AHAR.

*AHS* means the American Housing Survey published by HUD and the Department of Commerce.

*Balloon mortgage* means a mortgage providing for payments at regular intervals, with a final payment ("balloon payment") that is at least 5 percent more than the periodic payments. The periodic payments may cover some or all of the periodic principal or interest. Typically, the periodic payments are level monthly payments that would fully amortize the mortgage over a stated term and the balloon payment is a single payment due after a specified period (but before the mortgage would fully amortize) and pays off or satisfies the outstanding balance of the mortgage.

*Book-entry GSE Security* means a GSE Security issued or maintained in the Book-entry System. Book-entry GSE Security also means the separate interest and principal components of a Book-entry GSE Security if such security has been designated by the GSE as eligible for division into such components and the components are maintained separately on the books of one or more Federal Reserve Banks.

*Book-entry System* means the automated book-entry system operated by the Federal Reserve Banks acting as the fiscal agent for the GSEs, on which Book-entry GSE Securities are issued, recorded, transferred and maintained in book-entry form.

*Central city* means the underserved areas located in any political subdivision designated as a central city by the Office of Management and Budget of the Executive Office of the President.

*Charter Act* means the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 *et seq.*) or the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 *et seq.*).

*Contract rent* means the total rent that is, or is anticipated to be, specified in the rental contract as payable by the tenant to the owner for rental of a dwelling unit, including fees or charges for management and maintenance services and those utility charges that are included in the rental contract. In determining contract rent, rent concessions shall not be considered, *i.e.*, contract rent is not decreased by any rent concessions. Contract rent is rent net of rental subsidies.

*Conventional mortgage* means a mortgage other than a mortgage as to which a GSE has the benefit of any guaranty, insurance or other obligation by the United States or any of its agencies or instrumentalities.

*Day* means a calendar day.

*Definitive GSE Security* means a GSE Security in engraved or printed form, or that is otherwise represented by a certificate.

*Director* means the Director of OFHEO.

*Dwelling unit* means a room or unified combination of rooms intended for use, in whole or in part, as a dwelling by one or more persons, and includes a dwelling unit in a single-family property, multifamily property, or other residential or mixed-use property.

*ECOA* means the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*).

*Eligible Book-entry GSE Security* means a Book-entry GSE Security issued or maintained in the Book-entry System which by the terms of its Security Documentation is eligible to be converted from book-entry form into definitive form.

*Entitlement Holder* means a Person or a GSE to whose account an interest in a Book-entry GSE Security is credited on the records of a Securities Intermediary.

*Familial status* has the same definition as is set forth at 24 CFR 100.20.

*Family* means one or more individuals who occupy the same dwelling unit.

*Fannie Mae* means the Federal National Mortgage Association and any affiliate thereof.

*Federal Reserve Bank Operating Circular* means the publication issued by each Federal Reserve Bank that sets forth the terms and conditions under which the Reserve Bank maintains book-entry Securities accounts (including Book-entry GSE Securities) and transfers book-entry Securities (including Book-entry GSE Securities).

*FHEFSSA* means the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, codified generally at 12 U.S.C. 4501-4651.

*FOIA* means the Freedom of Information Act (5 U.S.C. 552).

*Freddie Mac* means the Federal Home Loan Mortgage Corporation and any affiliate thereof.

*Freddie Mac Act* means the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 *et seq.*).

*Government-sponsored enterprise* or *GSE* means Fannie Mae or Freddie Mac.

*GSE Security* means any security or obligation of Fannie Mae or Freddie Mac issued under its respective Charter Act in the form of a Definitive GSE Security or a Book-entry GSE Security.

*Handicap* has the same definition as is set forth at 24 CFR 100.201.

*HUD* means the United States Department of Housing and Urban Development.

*Lender* means any entity that makes, originates, sells, or services mortgages, and includes the secured creditors named in the debt obligation and document creating the mortgage.

*Low-income area* means a census tract or block numbering area in which the median income does not exceed 80 percent of the area median income.

*Median income* means, with respect to an area, the unadjusted median family income for the area, as most recently determined and published by the Secretary.

*Metropolitan area* means a metropolitan statistical area ("MSA"), primary metropolitan statistical area ("PMSA"), or consolidated metropolitan statistical area ("CMSA"), designated by the Office of Management

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and Budget of the Executive Office of the President.

*Minority* means any individual who is included within any one of the following racial and ethnic categories:

(1) American Indian or Alaskan Native—a person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition;

(2) Asian or Pacific Islander—a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands;

(3) African-American—a person having origins in any of the black racial groups of Africa; and

(4) Hispanic—a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

*Mortgage* means a member of such classes of liens, including subordinate liens, as are commonly given or are legally effective to secure advances on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, or a manufactured home that is personal property under the laws of the State in which the manufactured home is located, together with the credit instruments, if any, secured thereby, and includes interests in mortgages. "Mortgage" includes a mortgage, lien, including a subordinate lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member by a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code of 1986, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation.

*Mortgage data* means data obtained by the Secretary from the GSEs under subsection 309(m) of the Fannie Mae Charter Act and subsection 307(e) of the Freddie Mac Act.

*Mortgage purchase* means a transaction in which a GSE bought or otherwise acquired with cash or other thing of value, a mortgage for its portfolio or for securitization.

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*Multifamily housing* means a residence consisting of more than 4 dwelling units. The term includes cooperative buildings and condominium projects.

*New England* means Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

*OFHEO* means the Office of Federal Housing Enterprise Oversight.

*Ongoing program* means a program that is expected to continue for the foreseeable future.

*Other underserved area* means any underserved area that is in a metropolitan area, but not in a central city.

*Owner-occupied unit* means a dwelling unit in single-family housing in which a mortgagor of the unit resides.

*Participant* means a Person or GSE that maintains a Participant's Securities Account with a Federal Reserve Bank.

*Participation* means a fractional interest in the principal amount of a mortgage.

*Person*, as used in subpart H, means and includes an individual, corporation, company, governmental entity, association, firm, partnership, trust, estate, representative, and any other similar organization, but does not mean or include the United States, a GSE, or a Federal Reserve Bank.

*Portfolio of loans* means 10 or more loans.

*Proprietary information* means all mortgage data and all AHAR information that the GSEs submit to the Secretary in the AHARs that contain trade secrets or privileged or confidential, commercial, or financial information that, if released, would be likely to cause substantial competitive harm.

*Public data* means all mortgage data and all AHAR information that the GSEs submit to the Secretary in the AHARs, that the Secretary determines are not proprietary and may appropriately be disclosed consistent with other applicable laws and regulations.

*Real estate mortgage investment conduit (REMIC)* means multi-class mortgage securities issued by a tax-exempt entity.

*Refinancing* means a transaction in which an existing mortgage is satisfied or replaced by a new mortgage undertaken by the same borrower. The term does not include:

(1) A renewal of a single payment obligation with no change in the original terms;

(2) A reduction in the annual percentage rate of the mortgage as computed under the Truth in Lending Act, with a corresponding change in the payment schedule;

(3) An agreement involving a court proceeding;

(4) A workout agreement, in which a change in the payment schedule or collateral requirements is agreed to as a result of the mortgagor's default or delinquency, unless the rate is increased or the new amount financed exceeds the unpaid balance plus earned finance charges and premiums for the continuation of insurance;

(5) The renewal of optional insurance purchased by the mortgagor and added to an existing mortgage; and

(6) A renegotiated balloon mortgage on a multifamily property where the balloon payment was due within 1 year after the date of the closing of the renegotiated mortgage.

*Rent* means, for a dwelling unit:

(1) When the contract rent includes all utilities, the contract rent; or

(2) When the contract rent does not include all utilities, the contract rent plus:

(i) The actual cost of utilities not included in the contract rent; or

(ii) A utility allowance.

*Rental housing* means dwelling units in multifamily housing and dwelling units that are not owner-occupied in single-family housing.

*Rental unit* means a dwelling unit that is not owner-occupied and is rented or available to rent.

*Residence* means a property where one or more families reside.

*Residential mortgage* means a mortgage on single-family or multifamily housing.

*Revised Article 8* has the same meaning as in 31 CFR 357.2.

*Rural area* means any underserved area located outside of any metropolitan area.

*Seasoned mortgage* means a mortgage on which the date of the mortgage note is more than 1 year before the GSE purchased the mortgage.

*Second mortgage* means any mortgage that has a lien position subordinate only to the lien of the first mortgage.

*Secondary residence* means a dwelling where the mortgagor maintains (or will maintain) a part-time place of abode and typically spends (or will spend) less than the majority of the calendar year. A person may have more than one secondary residence at a time.

*Secretary* means the Secretary of Housing and Urban Development and, where appropriate, any person designated by the Secretary to perform a particular function for the Secretary, including any HUD officer, employee, or agent.

*Security* means any mortgage participation certificate, note, bond, debenture, evidence of indebtedness, collateral-trust certificate, transferable share, certificate of deposit for a security, or, in general, any interest or instrument commonly known as a "security."

*Securities Documentation* means the applicable statement of terms, trust indenture, securities agreement or other documents establishing the terms of a Book-entry GSE Security.

*Single-family housing* means a residence consisting of one to four dwelling units. Single-family housing includes condominium dwelling units and dwelling units in cooperative housing projects.

*Transfer message* means an instruction of a Participant to a Federal Reserve Bank to effect a transfer of a Book-entry Security (including a Book-entry GSE Security) maintained in the Book-entry System, as set forth in Federal Reserve Bank Operating Circulars.

*Underserved area* means:

(1) For purposes of the definitions of "central city" and "other underserved area," a census tract having:

(i) A median income at or below 120 percent of the median income of the metropolitan area and a minority population of 30 percent or greater; or

(ii) A median income at or below 90 percent of median income of the metropolitan area.

(2) For purposes of the definition of "rural area":

(i) In areas other than New England, a county having:

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(A) A median income at or below 120 percent of the State nonmetropolitan median income and a minority population of 30 percent or greater; or

(B) A median income at or below 95 percent of the greater of the:

(1) State non-metropolitan median income; or

(2) Nationwide non-metropolitan median income; and

(ii) In New England, an entire county having the characteristics in paragraph (2)(i)(A) or (B) of this definition or the remainder of a county, where a portion of the county is in a metropolitan area and the remainder of the county has the characteristics in paragraph (2)(i)(A) or (B) of this definition.

*Utilities* means charges for electricity, piped or bottled gas, water, sewage disposal, fuel (oil, coal, kerosene, wood, solar energy, or other), and garbage and trash collection. Utilities do not include charges for telephone service.

*Utility allowance* means either:

(1) The amount to be added to contract rent when utilities are not included in contract rent (also referred to as the "AHS-derived utility allowance"), as issued annually by the Secretary; or

(2) The utility allowance established under the HUD Section 8 Program (42 U.S.C. 1437f) for the area where the property is located.

*Very-low-income* has the same definition as "very low-income" has in FHEFSSA.

*Wholesale exchange* means a transaction in which a GSE buys or otherwise acquires mortgages held in portfolio or securitized by the other GSE, or where both GSEs swap such mortgages.

*Working day* means a day when HUD is officially open for business.

(c) *Subpart H terms.* Unless the context requires otherwise, terms used in subpart H of this part that are not defined in this part, have the meanings as set forth in 31 CFR 357.2. Definitions and terms used in 31 CFR part 357 should read as though modified to effectuate their application to the GSEs.

[60 FR 61888, Dec. 1, 1995, as amended at 61 FR 63947, Dec. 2, 1996; 62 FR 28977, May 29, 1997]

## 24 CFR Subtitle A (4-1-00 Edition)

### Subpart B—Housing Goals

#### §81.11 General.

This subpart establishes: three housing goals, as required by FHEFSSA; requirements for measuring performance under the goals; and procedures for monitoring and enforcing the goals.

#### §81.12 Low- and Moderate-Income Housing Goal.

(a) *Purpose of goal.* This annual goal for the purchase by each GSE of mortgages on housing for low- and moderate-income families ("the Low- and Moderate-Income Housing Goal") is intended to achieve increased purchases by the GSEs of such mortgages.

(b) *Factors.* In establishing the Low- and Moderate-Income Housing Goals, the Secretary considered the factors in 12 U.S.C. 4562(b). A statement documenting the Secretary's considerations and findings with respect to these factors, entitled "Secretarial Considerations to Establish the Low- and Moderate-Income Housing Goal," was published in the FEDERAL REGISTER on December 1, 1995.

(c) *Goals.* The annual goals for each GSE's purchases of mortgages on housing for low- and moderate-income families are:

(1) For 1996, 40 percent of the total number of dwelling units financed by that GSE's mortgage purchases in 1996;

(2) For each of the years 1997-99, 42 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years; and

(3) For 2000 and thereafter the Secretary shall establish annual goals; pending establishment of goals for 2000 and thereafter, the annual goal for each of those years shall be 42 percent of the total number of dwelling units financed by that GSE's mortgage purchases in each of those years.

#### §81.13 Central Cities, Rural Areas, and Other Underserved Areas Housing Goal.

(a) *Purpose of the goal.* This annual goal for the purchase by each GSE of mortgages on housing located in central cities, rural areas, and other underserved areas is intended to achieve increased purchases by the GSEs of mortgages financing housing in areas